



1201 Avenue of the Americas
25th Floor
New York, NY 10019

212.812.0400 main
212.812.0399 fax

May 4, 2023

August T. Horvath
212.812.0344

MEMO ENDORSED:

The conference currently scheduled for May 18, 2023, is adjourned sine die. Defendant will file its renewed pre-motion letter by **May 31, 2023**. Plaintiff will file any response by **June 5, 2023**.

SO ORDERED.

A handwritten signature in black ink that reads "Paul G. Gardephe".

Paul G. Gardephe
United States District Judge

Dated: May 15, 2023

Honorable Paul G. Gardephe, U.S.D.J.
U.S. District Court for the Southern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Garcia v. nabfly, Inc., Case No. 1:23-cv-1162-PGG

Dear Judge Gardephe:

This firm represents nabfly, Inc., d/b/a Bespoke Post (“Bespoke Post”), the defendant in this action. We write pursuant to Parts I.A and I.E of the Court’s Individual Rules to request an adjournment of the initial pre-trial conference noticed in the Court’s Order of February 14, 2023 (Dkt. 5) and the written submissions associated with the conference as ordered therein.

Last Friday, April 28, 2023, Bespoke Post filed a letter motion requesting a pre-motion conference on its intended motion to move to compel arbitration, to enforce the class waiver in Bespoke Post’s Terms of Service, and to stay these proceedings (“Motion”). Bespoke Post respectfully submits that the initial pre-trial conference and the various dates that would be specified in the associated Case Management Plan and Scheduling Order should be adjourned until after Bespoke Post’s Motion is decided, because it would be an unnecessary expenditure of the parties’ and Court’s time and resources to schedule this case, to complete initial disclosures, and to commence other litigation activities unless and until it is determined that this matter is properly before this Court. Bespoke Post requests that the date for an initial pre-trial conference be adjourned to approximately 30 days after the Court’s decision on the Motion, if the Motion is denied, and that the Joint Letter and Case Management Plan described in the Court’s February 14 Order be due 7 days prior to the conference.

There has been no previous request for extension of the date for the initial pre-trial conference, but the Court has granted two extensions of Bespoke Post’s time to respond to the Complaint (Dkts. 10, 12) in view of settlement discussions between the parties, which are still ongoing at this time. Counsel for Plaintiff has consented to this request.

Respectfully submitted,

A handwritten signature in black ink that reads "August T. Horvath".

August T. Horvath